

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
10/19/2001

*** FILED ***
10/24/2001
CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

J. Pinter
Deputy

CV 2001-010486

Docket Code 512 Page 1
FILED: _____

PAUL O VALENZUELA

PAUL O VALENZUELA
2301 N 71ST DR
PHOENIX AZ 85035-0000

v.

STATE OF ARIZONA, et al.

LISA C WAHLIN

MICHAEL N HARRISON
PATRICIA A NIGRO
MARVIN A SONDAG
PHX MUNICIPAL CT
REMAND DESK CV-CCC

MINUTE ENTRY

This case involves a special action filed by Petitioner Paul Valenzuela, who was convicted of rape and sodomy in 1978 for crimes occurring in 1977. Petitioner was released from the Arizona Department of Corrections and required to register as a Level 3 Sex Offender with the Maricopa County Sheriff's Office. Petitioner claims that A.R.S. Section 13-3821 has no application to him as a person convicted of sex offenses which occurred in 1977.

This Court has jurisdiction pursuant to the Arizona Constitution, Article VI, Section 18. Due to the nature of Petitioner's claim, a civil declaratory action suit is not an adequate remedy for Petitioner. This Court will accept special action jurisdiction in this case.

Defendant Arizona Department of Corrections has filed a motion to dismiss, which is appropriate. Petitioner has been released from the Arizona Department of Corrections, and that Department is not involved with the active maintenance of registration of sex offenders. Therefore,

IT IS ORDERED granting Arizona Department of Corrections' motion to dismiss.

Likewise, the Phoenix Police Department has moved for summary judgment, and that Department is also not involved with sex offender records. Therefore,

IT IS ORDERED dismissing this special action as to Defendant Phoenix Police Department.

Petitioner was previously convicted of rape and sodomy in 1978. The rape statute was the former A.R.S. Section 13-611. This statute is not an enumerated offense listed in the current A.R.S. Section 13-3821, which requires sex offenders to register with the sheriff in the county in which they reside as a sex offender. However, the elements of the crime of rape prior to 1978 are the same as those of sexual assault in violation of A.R.S. Section 13-1406, effective 09/01/78. More importantly, A.R.S. Section 13-3821(A) requires persons convicted of offenses before 09/01/78, “that if committed on or after 09/01/78, has the same elements of an offense listed under this section” must also register as a sex offender. A.R.S Section 13-3821(A) applies squarely to Petitioner’s case.

A.R.S. Section 13-3821 is a regulatory statute which may be applied retroactively.¹ Therefore,

IT IS ORDERED denying the relief requested by petitioner in his special action.

¹ State v. Noble, 171 Ariz. 171, 829 P.2d 1217 5(1992).